

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT**

LEWIS COSBY, ERIC MONTAGUE, and MARTIN
ZIESMAN, as Co-Trustee for the
Carolyn K. Ziesman Revocable
Trust, on behalf of themselves and
all others similarly situated
individually and on behalf of all
others similarly situated,

Plaintiffs

v.
KPMG, LLP,

Defendants

Civil Action No. 3:16-cv-121 (TAV)
Judge Thomas Varlan
Magistrate Judge Deborah Poplin

**UNSWORN DECLARATION OF GORDON BALL
IN RESPONSE TO DECLARATION OF LAURA POSNER**

I, Gordon Ball, declare the following statements are true and correct and that the following statements are of my own personal knowledge and if called as a witness I would competently testify regarding the same. I declare under penalty of perjury under the laws of the United States of America that the statements hereinafter made are true and correct. This declaration is made pursuant to 28 USC §1746.

DON DAUGHERTY

1. Appropriate due diligence concerning Don Daugherty by Ms. Posner of Cohen Milstein might well have revealed the Tennessee Board of Professional Responsibility has now filed charges of disciplinary violations against Tennessee attorneys Chris Cain and Allen McDonald. Those charges reveal that Don Daugherty was the mastermind

behind the trio's scheme to defraud the *Hale* class, class counsel for the Hale plaintiffs, the U.S. District Court for the Southern District of Illinois, and the U.S. Court of Appeals for the Seventh Circuit. (A copy of the charges and exhibits is attached as Exhibit 1).

3. I filed my declaration for the Tennessee Board of Professional Responsibility in June 2020 setting out the history of *Hale v. State Farm* case filed in 2012. (See pages 27-29 of Exhibit 1).

4. Daugherty's scheme was uncovered in July 2019 when the new administrator over our office computers found the following emails of Don Daugherty:

- a) February 3, 2017 email exchange between Don Daugherty and his wife wherein Daugherty tells his wife about objecting to class action cases with Cain and McDonald and splitting fees with Lance Baker.
- b) February 23, 2012 email from Daugherty to lawyer Keith D. Stewart wherein Daugherty welcomes Stewart to "my 5 year plan for making as much money as we can."
- c) July 16, 2012 email from Daugherty to Keith Stewart discussing finding an objector to a recent class action case wherein Daugherty states: "These guys will pay us and others rather than having their fees held up."
- d) November 25, 2013 email from Daugherty to Keith Stewart stating that he (Stewart) should never reply to Daugherty on the Gordon Ball email address.

(Attached collective Exhibit 2).

5. Prior to uncovering Daugherty's scheme, Don Daugherty in early 2019 filed Gordon Ball, LLC's timesheets in the *Hale v. State Farm* case which were accepted and relied on by Judge David Herndon of the Southern District of Illinois. Filing and keeping time records in class action cases was part of Daugherty's duties. These timesheets were sent to the Tennessee Board of Professional Responsibility to clearly show that Cain worked on the *Hale v. State Farm* case. (See pages 112-139 of Exhibit 1). This clearly disputes Lance Baker's declaration that no time records were filed in *Hale v. State Farm* as well as Don Daugherty's claim concerning my timekeeping.

LANCE BAKER DECLARATION

6. The February 3, 2017 email between Daugherty and his wife reveals that he and attorney Lance Baker were splitting fees.

“Lance and I will be paid in our first civil rights case after this appeal is over in a few months (that's a minimum of another \$35,000). Plus, Lance and I will settle a couple more cases this year.”

(See page two of Exhibit 2).

After discovering Daugherty's scheme and the above email, I filed a complaint against Lance Baker with the Tennessee Board of Professional Responsibility. In connection with the complaint, I sent the Board a letter and attachment of September 27, 2019 which reveals that Allen McDonald had used Kimberly Baker (Lance Baker's mother) as his objector in the case of *Dominick, et al v. Celco Partnership*, No. 2:06-cv-02163-FS-MF in the United States District Court for the District of New Jersey. (See page 96 of Exhibit 1 - a partial list of cases where Cain, McDonald and Daugherty objected and obtained fees).

7. I believe that Lance Baker was splitting fees with non-lawyer, Daugherty.

Unfortunately, the email of February 3, 2017 was the only email found that clearly implicated Baker. The Board dismissed the complaint against Baker.

8. Lance Baker lied in his declaration concerning timesheets and their preparation in my firm. Baker had no knowledge concerning the timesheets actually kept and prepared by Daugherty in the *Hale v. State Farm*. The Southeastern Milk case was never certified as a class action case and no timesheets were ever submitted by Gordon Ball, LLC.

9. Unbeknownst to me, Don Daugherty has hated me for a long time. In his email to his wife of July 20, 2015 at 4:41 PM, Daugherty states to his wife and says about me:

“To be sure I have no doubt that when the karma train comes around, he’ll be given a heavy dose of adrenaline (to keep him awake), held down on the tracks by all the people he hurt in his life, as the train rolls ever so slowly, back and forth...over each of his various appendages...one at a time until lastly coming to his head.”

(Email is attached as Exhibit 3).

In further support, see Declaration of G. Patrick Murphy. (Exhibit 4)

Respectfully submitted this 28th day of June 2022.

s/Gordon Ball

Gordon Ball